

Remarks

A. Introduction

Claims 8-40 are pending in this application. With this amendment Applicants have amended claims 8, 14, 16, 19, 21, and 29 and added claims 41-45. As such, claims 8-45 are currently pending.

In response to the Office Action, Applicants have elected to respond to the Office Action in an attempt to expedite the prosecution of the pending claims. However, Applicants note that according to M.P.E.P. § 1208.02 the fees paid in connection with the Notice of Appeal mailed June 9, 2003 and the Appeal Brief filed mailed July 23, 2003 may be applied to a future appeal in this application, if necessary.

B. Allowable Subject Matter

Applicants acknowledge with appreciation the Examiner's continued indication that claims 11 and 30-33 are allowable.

C. Claim Rejections under 35 U.S.C. §112

The Examiner rejected claims 16-20 under 35 U.S.C. §112 as being indefinite. The Examiner did not provide any reasons why claims 16-18 and 20 are considered indefinite. As such, Applicants assume that claims 16-18 and 20 comply with the requirements of §112.

Regarding claim 19, the Examiner states that the limitation of "the handle extends from the frame of the propulsion system to a height above the patient restraint board" is vague and indefinite. With this amendment, Applicants have amended claim 19 to recite "wherein the vertically extending handle is configured to extend from the frame of the propulsion device above the patient restraint board." Applicants respectfully submits that claim 19 is in condition for allowance.

D. Claim Rejections under 35 U.S.C. §102(b)

For a reference to anticipate a claim, the reference must teach every element of the claim. See Manual of Patent Examining Procedure, ("MPEP"), § 2131 (8th ed. 2001). (citing Verdegaal Bros. V. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) and Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) ("The identical invention must be shown in as complete detail as is contained in the ... claim.")). See also Teleflex Inc. v. Ficosa North America Corp., 299 F.3d 1313, 63 USPQ2d 1374 (Fed. Cir. 2002) ("As we [the Federal Circuit] have repeatedly stated, anticipation requires that each limitation of a claim must be found in a single reference. "). General Electric Co. v. Nintendo Co., 179 F.3d 1350, 1356, 50 USPQ2d 1910, 1915 (Fed. Cir. 1999) ("[A]nticipation

requires that a single prior art reference disclose every limitation in a patent claim.”) (citing PPG Indus., Inc. v. Guardian Indus. Corp., 75 F.3d 1558, 1566, 37 USPQ2d 1618, 1624 (Fed. Cir. 1996)).

The Examiner rejected claims 8, 9, 12-15, and 30-40 under 35 U.S.C. §102(b) as being anticipated by German Patent 1,041,210. (“German Patent”). The rejected claims include independent claim 8, from which claims 9, 12-15 depend, and independent claim 34, from which claims 35-40 depend.

The German Patent illustrates a two-wheel device. The Examiner in rejecting independent claims 8 and 34 did not consider the phrase “adapted to contact the floor.” Regardless of the consideration of the phrase, “adapted to contact the floor,” the German Patent does not anticipate either of independent claim 8 or independent claim 34. However, since the Examiner is giving no patentable weight to the phrase, “adapted to contact the floor,” Applicants have deleted this phrase from both of independent claims 8 and 34.

Applicant submits that the German Patent does not disclose, teach or suggest the propulsion system of claim 8 which recites “a propulsion device to power movement of the patient support” The two wheel device shown in the German Patent does not provide a propulsion device to power movement.

For at least this reason, Applicants submits that the propulsion system as recited in independent claim 8 patentably defines the invention over the German Patent. Accordingly, Applicant submits that independent claim 8 is in condition for allowance.

Claims 9 and 12-15 depend from claim 8 and are patentably distinguishable over the German Patent at least for the reasons given above in connection with claim 8 and for the further limitations of claims 9 and 12-15. Accordingly, Applicants submit that claims 9 and 12-15 are in condition for allowance.

Applicant submits that the German Patent does not disclose, teach or suggest the propulsion system of claim 34 which recites “a propulsion device to power movement of the patient support” The two wheel device shown in the German Patent does not provide a propulsion device to power movement.

For at least this reason, Applicants submits that the propulsion system as recited in independent claim 34 patentably defines the invention over the German Patent. Accordingly, Applicant submits that independent claim 34 is in condition for allowance.

Claims 35-40 depend from claim 34 and are patentably distinguishable over the German Patent at least for the reasons given above in connection with claim 34 and for the further limitations of claims 35-40. Accordingly, Applicants submit that claims 35-40 are in condition for allowance.

The Examiner rejected claims 16-20 under 35 U.S.C. §102(b) as being anticipated by Japanese Patent Abstract 08-317953. (“Japanese Patent”). The Japanese Patent relates to a DEVICE

FOR TRANSPORTING BED. The Examiner refers to Figures 24-28 in rejecting claims 16-20. The rejected claims include independent claim 16 from which claims 17-20 depend.

Applicants submit that the Japanese Patent does not disclose, teach, or suggest the propulsion system of claim 16 which recites “a propulsion device ... and a coupler configured ... to be coupled to the perimetrical portion of the patient restraint board.” The bed transporting device of the Figures 24-28 of the Japanese Patent is not coupled to a patient restraint board of a bed.

For at least this reason, Applicants submits that the propulsion system as recited in independent claim 16 patentably defines the invention over the Japanese Patent. Accordingly, Applicant submits that independent claim 16 is in condition for allowance.

Claims 17-20 depend from claim 16 and are patentably distinguishable over the Japanese Patent at least for the reasons given above in connection with claim 16 and for the further limitations of claims 17-20. Accordingly, Applicants submit that claims 17-20 are in condition for allowance.

The Examiner rejected claims 21, 22, 26, and 29 under 35 U.S.C. §102(b) as being anticipated by the Japanese Patent. The rejected claims include independent claim 21 from which claims 22, 26, and 29 depend.

Applicants submit that the Japanese Patent does not disclose, teach, or suggest the propulsion system of claim 21 which recites “a propulsion device ... a coupler ... and a vertically extending handle coupled to the coupler and configured to move the coupler between the coupled and uncoupled positions.” The bed transporting device of the Figures 24-28 of the Japanese Patent does not include a vertically extending handle configured to move the coupler between the coupled and uncoupled positions.

For at least this reason, Applicants submits that the propulsion system as recited in independent claim 21 patentably defines the invention over the Japanese Patent. Accordingly, Applicant submits that independent claim 21 is in condition for allowance.

Claims 22, 26, and 29 depend from claim 21 and are patentably distinguishable over the Japanese Patent at least for the reasons given above in connection with claim 21 and for the further limitations of claims 22, 26, and 29. Accordingly, Applicants submit that claims 22, 26, and 29 are in condition for allowance.

D. New Claims

With this Response, Applicants have added new claims 41-45. Independent claim 41 is directed to a propulsion system configured to move a patient support, the patient support including a bedframe and a patient restraint board, the bedframe being configured to be raised and lowered resulting in the patient restraint board being positioned in multiple positions including a raised position and a lowered position. Independent claim 44 is directed to a method of coupling a

propulsion system to a patient support, the patient support including a bedframe and a patient restraint board having a perimetrical portion, the bedframe being configured to be raised and lowered resulting in the patient restraint board being positioned in multiple positions including a raised position and a lowered position. Consideration and allowance of these claims is respectfully requested.


E. Final Remarks

Claims 8-45 are believed to be in condition for allowance. Such allowance is respectfully requested.

If necessary, please consider this a Petition for Extension of Time to affect a timely response. Please charge any additional fees or credits to the account of Bose McKinney & Evans, LLP Deposit Account No. 02-3223. In the event that there are any questions related to these amendments or to the application in general, the undersigned would appreciate the opportunity to address those questions directly in a telephone interview to expedite the prosecution of this application for all concerned.

Respectfully submitted

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